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PLEASE REPLY TO
NEW JERSEY OFFICE

September 15, 2010

VIA ECF

Honorable Douglas E. Arpert, U.S.M.J.
United States District Court for the District of New Jersey
Clarkson S. Fisher Federal Building and U.S. Courthouse, Room 6W
402 East State Street
Trenton, New Jersey 08608

Re: BMW of North America, LLC, et al. v. Onyx Enterprises Int'l Corp., et al.
Civil Action No. 10-4016 (MLC) DEA

Dear Judge Arpert:

This is in response to the Letter of September 13, 2010 (docket entry 10) and the Letter of September 14, 2010 (docket entry 11) from Plaintiffs BMW of North America, LLC and Bayerische Motoren Werke AG (collectively "Plaintiffs").

This firm represents Defendants Onyx Enterprises International Corp., Roman Gerashenko, and Stanislav Royzenshteyn (collectively, "Defendants"), which have, pursuant to Clerk's Order, until September 23, 2010 to answer Plaintiffs' Complaint (see unnumbered docket entry dated September 7, 2010) ("the September 7, 2010 Clerk's Order"). This is due to Defendants making an Application for an Extension of Time to Answer, Move or Otherwise Reply (L.Civ.R.6.1(B)) (docket entry 9) ("the 6.1B Application"). The 6.1B application is partially in error, and service was, in fact, effected on Defendant Onyx Enterprises Int'l Corp. on August 12, 2010, on Stanislav Royzenshteyn on August 13, 2010, and then on Defendant Roman Gerashenko on August 18, 2010. Defendants apologize for any misunderstanding.

Plaintiffs have requested the September 7, 2010 Clerk's Order be rescinded and the time to answer for Defendants be advanced, until September 16, 2010 for Onyx Enterprises International Corp., and until September 17, 2010 for Stanislav Royzenshteyn. No mention is made of the time for Roman Gerashenko to answer and, thus, presumably, Plaintiffs do not challenge the September 23, 2010 deadline with regard to him. Therefore, if literally construed, Defendants request three answers to the Complaint (see Docket Entry 1), one for each of the Defendants, instead of one for all represented parties, as is typical. This disserves the interests of and imposes a burden on Defendants, whereas no burden will result to Plaintiffs merely by waiting until September 23, 2010.

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Accordingly, Defendants respectively request that Plaintiffs' motion be denied, or, in the alternate, if this Court finds that the 6.1B Application was untimely made, Plaintiffs urge the Court to, in a similar fashion to Achilles Curbison, et al. v. United States Government of New Jersey, 2006 Lexis 89004 at *12, consider the 6.1B Application to have been made under second sentence of L.Civ.R. 6.1B (stating an application for an extension of time may be "be presented to the Court for consideration." Id.) and let the answer be filed on September 23, 2010, as currently stands.

Respectfully,

s/ Jay R. McDaniel

CC: Courtesy copy to Plaintiffs' Counsel
(via ECF and facsimile)

Courtesy copy to Honorable Douglas E. Arpert, U.S.M.J.
(pursuant to CM/ECF Special Procedures for the U.S. District Court for the District of New Jersey) (via U.S. Mail)